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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,636	09/29/2003	Tatsuya Kawakami	SN-US015180A	6270
22919	7590	05/14/2004	EXAMINER	
SHINJYU GLOBAL IP COUNSELORS, LLP 1233 20TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-2680			LUONG, VINH	
			ART UNIT	PAPER NUMBER
			3682	

DATE MAILED: 05/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,636

Applicant(s)

KAWAKAMI, TATSUYA

Examiner

Vinh T Luong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09292003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



Vinh T. Luong
Primary Examiner

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10142003.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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1. The Preliminary Amendment filed on September 29, 2003 has been entered. It is noted that applicant states "[T]his application is directed to the species of Figs. 1, 3, 5, and 41-68" on page 6 of the Preliminary Amendment.
 2. The formal drawings were received on October 14, 2003. These drawings are accepted.
 3. The drawings are objected to because Fig. 5 should have referential numeral "162" to indicate the operating member.
 4. The Patent and Trademark Office no longer makes drawing changes. See 1017 O.G. 4.
- It is applicant's responsibility to ensure that the drawings are corrected. Corrections must be made in accordance with the instructions below.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

Replacement Drawing Sheets

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

Annotated Drawing Sheets

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheets must be clearly labeled as "Annotated Marked-up Drawings" and accompany the replacement sheets.

Timing of Corrections

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Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

5. The disclosure is objected to because of the following informalities: the US Patent No. 6,694,840 B2 should be filled in in the insertion between lines 2 and 3 on page 2 of the specification. Appropriate correction is required.

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter, such as, "a first end" and "a second end" of the operating link in claim

11. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation "an operating link having *a first end* coupled to said first operating member and *a second end* mounted on *a second pivot axle*, said second pivot axle being spaced from said first pivot axle and arranged to be parallel to said first pivot axle" (emphasis added) in claim 11 is imprecise. Fig. 5 shows that the first end at the hole 164b₁ in Fig. 51 is coupled to the first operating member 160 by the pivot pin 169, and the second end at the main hole 164a₁ is

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mounted on *the first pivot axle 140* by the spacer 165. The pin 148 which mounts the operating link 164 to the intermediate plate 136 is *not* at the second end of the operating link 164.

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 11-20, as best understood, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11-14 and 16-22 of U.S. Patent No. 6,694,840 B2 (hereinafter Pat.'840). Although the conflicting claims are not identical, they are not patentably distinct from each other because applicant apparently uses a slightly different terminology in order to claim substantially the same invention. *In re Griswold*, 150 USPQ 804 (CCPA 1966). Indeed, see the comparison between claims 11-20 of this application with claims 11-14 and 16-22 of Pat.'840 below:

<u>Common</u>	<u>Appl.'636</u>	<u>Pat.'840</u>
first operating member	claim 11	claim 11
cable winding mechanism	claim 11	claim 11
	first pivot axle (claim 11)	first fixed pivot axle (claim 13)
operating link	claim 11	claim 13
	second pivot axle (claim 11)	second fixed pivot axle (claim 18)

winding pawl	claims 11 and 13	claim 16
cable winding member	claims 12, 16, and 20	claims 12, 14, and 22
ratchet member	claims 12 and 16	claims 12 and 14
locking member	claim 12	claim 12
second operating member	claim 14	claims 11 and 17
follower link	claim 15	claim 18
biasing member	claim 17	claim 19
handlebar mounting bracket	claim 18	claim 20
return biasing member	claim 19	claim 21

Claim 11 of this application recites "an operating link having *a first end* coupled to said first operating member and *a second end* mounted on *a second pivot axle*, said second pivot axle being spaced from said first pivot axle and arranged to be parallel to said first pivot axle" (emphasis added), however, note that claim 11 of Pat.'840 call for the second path being substantially parallel to the first path. In other words, applicant apparently interchanges the terms "axle" and "path" in this application and Pat.'840.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the operating link having *a first end* coupled to said first operating member and *a second end* mounted on *a second pivot axle*, said second pivot axle being spaced from said first pivot axle and arranged to be parallel to said first pivot axle as claimed in this application as taught or suggested by the parallel first and second paths claimed in claim 11 of Pat.'840.

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The Examiner notes that claim 11 of Pat.'840 which was claim 21 of parent Application No. 10/041,557 is generic and allowed. Therefore, the restriction in the parent application has been withdrawn, the provisions of 35 USC 121 are no longer applicable. See paragraph 4 on page 2 of the Notice of Allowance on November 21, 2003 of the Appl.'557 citing *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971) and MPEP § 804.01.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Nagano'213 (parallel axes 11a and 15a in Fig. 4) and Nagano'878 (parallel axes 26 and 27 in Fig. 11).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 703-308-3221. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Luong

May 11, 2004



Vinh T. Luong
Primary Examiner